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| 09/635,506      | 08/09/2000  | Scott Faber          | 004704.P004         | 5692             |

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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/635,506

Applicant(s)

FABER ET AL.

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-96 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-96 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This Final Office action is responsive to Applicant's response filed May 8, 2003.

No amendments have been made to the claims.

Claims 1-96 are pending.

2. The previously pending objection to the specification is withdrawn in response to Applicant's amendment of the abstract.

The previously pending objection to the drawings is withdrawn in response to Applicant's submission of a proposed drawing correction, which has been approved by the Examiner.

### *Response to Arguments*

3. Applicant's arguments filed May 8, 2003 have been fully considered but they are not persuasive.

Applicant's sole argument relies on the assertion that Lauffer (U.S. Patent No. 6,223,165 B1) is disqualified as a reference because Lauffer is assigned to Keen.com, which is the assignee of the present application (page 29 of Applicant's response).

Examiner respectfully reminds the Applicant that in order to exclude a reference under 35 U.S.C. 103(c), Applicant must supply evidence of common ownership, or an obligation of assignment to the same person, at the time the invention was made.

Applicant fails to provide such evidence showing common ownership at the time the

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invention was made; therefore, Lauffer is not excluded as prior art under 35 U.S.C.

103(c).

Accordingly, the pending art rejection is maintained.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauffer (U.S. Patent No. 6,223,165 B1) in view of Weinstein et al. (US 2001/0026609 A1).

Lauffer discloses a method comprising:

[Claim 1] displaying a service provider and a service provider rate for communicating with the service provider and a real-time indication of whether the service provider is available (claim 1);

receiving a request from a first customer to communicate with the service provider (claim 1);

connecting the first customer to the service provider through a link capable of transmitting from the service provider to the first customer (claim 1);

receiving a request from a second customer to communicate with the service provider (col. 4, lines 50-54; claim 1 -- As long as the expert stays online and he/she is

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deemed to be available, he/she connects with customer after customer one at a time, i.e., a first customer, second customer, etc.; therefore, it is understood that the expert is connected to a customer any time the expert is online and a customer desires to communicate with him/her); and

connecting the second customer to the service provider through a link capable of transmitting from the service provider to the second customer (col. 4, lines 50-54; claim 1 -- As long as the expert stays online and he/she is deemed to be available, he/she connects with customer after customer one at a time, i.e., a first customer, second customer, etc.; therefore, it is understood that the expert is connected to a customer any time the expert is online and a customer desires to communicate with him/her);

billing the first customer automatically based on the time during which the link to the first customer is maintained (claims 14-19); and

billing the second customer automatically based on the time during which the link to the second customer is maintained (col. 4, lines 50-54; claims 14-19 -- As long as the expert stays online and he/she is deemed to be available, he/she connects with customer after customer one at a time, i.e., a first customer, second customer, etc.; therefore, it is understood that the expert is connected to a customer any time the expert is online and a customer desires to communicate with him/her);

[Claim 2] wherein the link from the service provider to the first customer is implemented through use of telephone connections (col. 9, lines 5-14; claim 1);

[Claim 3] wherein the link from the service provider to the first customer is implemented through use of the Internet (col. 9, lines 5-14);

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[Claim 4] wherein the link from the service provider to the first customer is configured to transmit from the first customer to the service provider (col. 9, lines 5-14);

[Claim 5] the first customer paying an intermediary and the second customer paying the intermediary, the intermediary receiving the requests, the intermediary connecting the service provider to the first customer, the intermediary connecting the service provider to the second customer, the intermediary performing the billing (col. 8, lines 13-16; col. 7, lines 56-59);

[Claim 6] the intermediary having a set of service providers including the service provider (claim 1); and

the intermediary performing the providing in response to a choice by the first customer of the service provider from the set of service providers (claim 1);

[Claim 7] wherein the link from the service provider to the first customer is implemented through use of the Internet or through use of telephone connections (col. 9, lines 5-14; claim 1);

[Claim 8] wherein the link from the service provider to the first customer is configured to transmit from the first customer to the service provider (col. 9, lines 5-21; claim 1);

[Claim 9] moderating transmissions from the service provider and transmissions from the first customer (col. 9, lines 5-21 -- It is understood that the connection is ended when either the expert, customer, or server hang up/disconnect);

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[Claim 10] wherein the moderating is performed by the service provider (col. 9, lines 5-21 -- It is understood that the connection is ended when either the expert, customer, or server hang up/disconnect);

[Claim 11] wherein the moderating is performed by a moderator (col. 9, lines 5-21 -- It is understood that the connection is ended when either the expert, customer, or server hang up/disconnect);

[Claim 12] further comprising the moderator receiving a request from the first customer to transmit to the service provider (col. 9, lines 5-21; claim 1);

[Claim 13] further comprising the moderator granting the request from the first customer to transmit to the service provider upon payment by the first customer to the intermediary (col. 8, lines 30-40; col. 9, lines 35-36; claims 14-19);

[Claim 14] wherein the request from the first customer to transmit to the service provider pertains to conversing with the service provider (claim 1);

[Claim 15] permitting the first customer to converse with the service provider (claim 1); and

receiving payment from the first customer based on a duration of the conversing (claims 14-19);

[Claim 16] receiving a request from the second customer to converse with the service provider (claim 1);

[Claim 18] ending the conversing between the first customer and the service provider (col. 9, lines 5-21; claim 14 -- It is understood that the connection is ended when either the expert, customer, or server hang up/disconnect);

[Claim 19] wherein the request from the first customer to transmit to the service provider pertains to transmitting a question to the service provider (claim 1);

[Claim 20] permitting the first customer to transmit a question to the service provider (col. 9, lines 32-35, 49-50; claim 1); and

receiving payment from the first customer for transmitting the question to the service provider (col. 9, lines 35-36; claims 14-19);

[Claim 21] receiving a request from the second customer to transmit a question to the service provider (claim 1);

[Claim 23] removing the first customer from the link between the first customer and the service provider, the removing performed by the moderator (col. 9, lines 5-21; claim 14 -- It is understood that the connection is ended when either the expert, customer, or server hang up/disconnect).

As per claim 1, Lauffer teaches an expert system wherein multiple customers (one-at-a-time) can pay to communicate with an expert, i.e., a service provider; however, Lauffer fails to teach the connection of both a first and second customer to a service provider at the same time. Weinstein makes up for this deficiency in his teaching of "group expert calls" (§§ 112, 115). An expert offers a scheduled time during which various customers can pay for the opportunity to participate in a group call with the expert. These group expert calls "facilitate the more equitable marketing of people's time on the phone" (§ 25), thereby providing an easily accessible forum for experts to market their revenue-generating services. Both Lauffer and Weinstein provide readily



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accessible forums where experts can market their services to the public; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement Weinstein's group expert call feature with Lauffer's expert system such that an expert can consult with both a first and second customer at the same time in order to facilitate the more equitable marketing of the experts' time on the phone, thereby providing an easily accessible forum for experts to market their revenue-generating services.

Furthermore, as per claims 17 and 22, Weinstein discloses a waiting list feature with his group expert call system (¶ 115). This feature allows new participants to enter a group expert call when other participants disconnect, thereby increasing profit for an expert who is charging each participant by the minute. Lauffer also teaches an embodiment where customers are charged per minute of connection time; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to utilize Weinstein's waiting list feature to enable Lauffer's moderator to queue requests to converse with the service provider (as per claim 17) as well as requests to transmit questions to the service provider (as per claim 22) in order to allow new participants to enter a group expert call when other participants disconnect, thereby increasing profit for an expert who is charging each participant by the minute.

[Claims 24-46]      Claims 24-46 recite limitations already addressed by the rejection of claims 1-23 above; therefore, the same rejection applies.

[Claims 47-60] Claims 47-60 recite limitations already addressed by the rejection of claims 1-23 above; therefore, the same rejection applies.

[Claims 61-74] Claims 61-74 recite limitations already addressed by the rejection of claims 1-23 above; therefore, the same rejection applies.

[Claims 75-96] Claims 75-96 recite limitations already addressed by the rejection of claims 1-23 above; therefore, the same rejection applies.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:


**Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

or faxed to:

**(703)305-7687** [Official communications; including  
After Final communications labeled  
"Box AF"]

**(703)746-7048** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7<sup>th</sup> floor receptionist.

Susanna M. Diaz   
Patent Examiner  
Art Unit 3623  
May 17, 2003

  
**TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600**